

**BEST AVAILABLE COPY**

**AMENDMENT UNDER 37 C.F.R. § 1.111**  
**Appln. No. 10/074,009**

**PATENT APPLICATION**

**REMARKS**

Reconsideration and further examination of this application is hereby requested. Claims 1, 4, 7, 28, and 29 are currently pending in the application. Claims 2, 3, 5, 6, 8-27, and 30-47 have been canceled without prejudice to re-filing in a divisional application.

**A. The Obviousness Rejections**

Claim 1 has been rejected under 35 U.S.C. § 103(a) as being obvious over Ellsworth (US 3325061) or Maki (US 4252159) in view of Fekl (US 4085866). Claims 4 and 28-30 have been rejected under 35 U.S.C. § 103(a) as being obvious over Ellsworth or Maki in view of Fekl, Cohen (US 3747847), and Ausman (US 4308450). Claim 7 has been rejected under 35 U.S.C. § 103(a) as being obvious over Ellsworth or Maki in view of Fekl, Cohen, Ausman, Alessi (US 3672061), and Whitmire (US 4445370). These rejections are respectfully traversed based on the following arguments.

In order for a patent claim to be obvious, the prior art must teach or fairly suggest each and every limitation of the claim. That is because the claim must be considered as a whole.

Independent claim 1 recites the limitation that the syringe has

Date: March 2, 2005

- 4 -

Atty. Dkt. No.: 2687-016DIV1

## BEST AVAILABLE COPY

AMENDMENT UNDER 37 C.F.R. § 1.111  
Appln. No. 10/074,009

PATENT APPLICATION

a plurality of numeric non-volumetric measuring  
indicia

(refer to lines 2 and 3), while also reciting the limitation  
that the

syringe further comprises at least one additional  
different type of non-volumetric measuring  
indicia.

See claim 1 at the last three lines.

When considered together, the Ellsworth, Maki, Fekl, Cohen,  
Ausman, Alessi, and Whitmire references do not teach or fairly  
suggest a syringe that has plural numeric non-volumetric  
measuring indicia, and additionally having at least one  
additional different type of non-volumetric measuring indicia.

Due to this deficiency of the prior art, Applicant  
respectfully submits that the PTO has not established a *prima*  
*facie* case of obviousness with respect to claims 1, 4, 7, 28,  
and 29.

For the above reasons, Applicant respectfully submits that  
the application is in condition for allowance with claims 1, 4,  
7, 28, and 29. If there remain any issues that may be disposed  
of via a telephonic interview, the Examiner is kindly invited to  
contact the undersigned at the telephone number given below.

Date: March 2, 2005

- 5 -

Atty. Dkt. No.: 2687-016DIV1

**BEST AVAILABLE COPY**

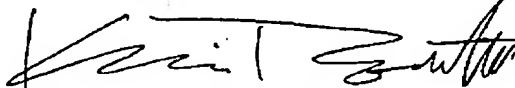
AMENDMENT UNDER 37 C.F.R. § 1.111  
Appln. No. 10/074,009

PATENT APPLICATION

No fee is believed to be due. However, in the event it is determined that a fee is required for consideration of this paper, please charge any necessary fee to Deposit Account No. 18-1579.

Respectfully submitted,

ROBERTS ABOKHAIR & MARDULA, LLC



Kevin L. PONTIUS  
Reg. No. 37512

*Please direct telephone inquiries to:*

Kevin Pontius at (703) 391-2900 or (505) 922-1400

*Please continue to direct correspondence to:*

Roberts Abokhair & Mardula, LLC  
11800 Sunrise Valley Dr.  
Suite 1000  
Reston, VA 20191